

**VICENTA ANDRADA, ANGELA ANDRADA, AND JOSEFA ANDRADA,  
PLAINTIFFS AND APPELLEES, VS. FELIX SEVILLA AND CORAZON CH.  
VELOSO, DEFENDANTS AND APPELLANTS.**

*G.R. No. 6524. August 04, 1911*

Ponente: JOHNSON, J.

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**JOHNSON, J.:**

The purpose of this action was 'to recover from the defendants the parcels of land described in paragraphs 4 and 5 of the complaint.

The plaintiffs allege that they are the only heirs of Maria Andrada, deceased; that Maria Andrada died intestate; that after the death of Maria Andrada, the defendant, Felix Sevilla, took possession of the land in question; that Felix Sevilla sold a portion of the said land to his co-defendant, Corazon Ch. Veloso; that the plaintiffs, as the only heirs of Maria Andrada, are entitled to the possession of the property in question, and that the defendants are wrongfully withholding from them the possession of the same.

The plaintiffs prayed for the possession of the land in question, together with damages in the sum of P1,000 for the wrongful withholding of the same, and costs.

The defendants answered the petition of the plaintiffs and alleged that Maria Andrada, on the 9th of November, 1904, by means of a public document, "de donacion absoluta e irrevocable" gave to the defendant, Felix Sevilla, the parcels of land referred to in paragraphs 4 and 5 of the complaint; that at the time of the said donation Maria Andrada was the absolute owner of the said property and that the same was free from any incumbrance whatsoever; that the said donation was ratified by Maria Andrada in three other public documents, bearing: date of the 16th of November, 1904, the 10th of January, 1905, and the 10th of April, 1905, respectively, and that the plaintiffs knew of the said donation as early as the 16th of August, 1905.

After hearing the evidence adduced during the trial of the cause, the lower court found that the said donation was executed in violation of the provisions of article 634 of the Civil Code and was, therefore, null and void. Said article 634 provides that:

"A donation may comprise all of the actual property of the donor or a part of it, provided he reserves in fee simple or in usufruct what is required for his. support in a condition corresponding to his circumstances."

The evident theory of the lower court was that a donation of all of the actual property of a donor or a part of it without a reservation in fee simple or in usufruct was void ab initio. This interpretation of said section is not justified. A donation of all of the actual property of the donor or a part of it without reservation in fee simple or in usufruct is not void, but voidable only. Any other interpretation of said article would place a limitation upon the right of owners of property to dispose of the same. The article, however, does give to the donor a right to have the donation declared null and void if made in contravention of its provisions. (5 Manresa, pp. 121-130.) The donation was made on the 9th of November, 1904, and was ratified three times after that, dates as above stated.

Maria Andrada died on the 23d of January, 1908. There is no proof in the record that she ever took any steps to have said donation annulled, or that she ever complained to any person or persons whatever concerning the provisions of said donation.

The foregoing would seem to be sufficient discussion of the questions presented to dispose of them, but an examination of document marked No. 3, dated November 9, 1904, the same being one of the documents ratifying the said donation, discloses that Maria Andrada, in paragraph 1 of said document, did make the following reservation:

"1. That there is not included in the property I gave to Felix Sevilla y Macam on November 9, 1904, the monthly installment of fifty pesos which I then reserved to myself for suitable living expenses and other needs, which sum, while I live, shall be derived from either the rental or the sale of the property given to Felix Sevilla y Macam; and in fact, to date, I have received monthly not only fifty, but eighty-five pesos, in addition to what I have also asked and received from Felix Sevilla out of what he earns in his office."

With this reservation in the donation, certainly there has been no violation of the provisions of said article 634.

Upon a full consideration of all of the facts adduced during the trial of the cause, we find no foundation for the claim of the plaintiffs. There is no proof that the donee failed at any time to comply with the provisions of said donation, nor is there any proof that Maria Andrada ever attempted to revoke the said donation.

For all the foregoing reasons, we hold that the judgment of the lower court should be reversed and that a judgment should be entered absolving the defendants from any liability under the said complaint, and without any finding as to costs, it is so ordered.

Torres, Mapa, Carson, and Moreland, JJ., concur.

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